



Commonwealth of Kentucky

CONTRACT

IMPORTANT

Show Doc ID number on all packages, invoices and correspondence.

Doc Description: KP-6 Cold Mix District 10

Doc ID No: CTT1 625 1400000062 1

Procurement Folder: 3163456

Procurement Type: Standard Goods

Administered By: THOMAS GILPIN

Cited Authority: FAP111-35-00-G

Telephone: 270-766-5066

Issued By: Laura Hagan

C O N T R A C T O R

MOUNTAIN ENTERPRISES INC

POB 13130

LEXINGTON KY 40583-3130

US

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
1	Breathitt Co Maintenance	2014-01-13	60.00	TN	121.50000	0.00	7,290.00

B I L L T O	319166 KYTC DIST 10-JACKSON DISTRICT OFFICE PO BOX 621 JACKSON KY 41339 US	S H I P T O	321999 KYTC LOCATION AS STATED SEE EXTENDED DESCRIPTION N/A KY US
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Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
2	Estill Co Maintenance	2014-01-13	40.00	TN	129.00000	0.00	5,160.00

B I L L T O	319166 KYTC DIST 10-JACKSON DISTRICT OFFICE PO BOX 621 JACKSON KY 41339 US	S H I P T O	321999 KYTC LOCATION AS STATED SEE EXTENDED DESCRIPTION N/A KY US
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Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
3	Lee Co Maintenance	2014-01-13	40.00	TN	123.60000	0.00	4,944.00

B I L T O	319166	S H I P T O	321999
	KYTC DIST 10-JACKSON DISTRICT OFFICE		KYTC LOCATION AS STATED
	PO BOX 621		SEE EXTENDED DESCRIPTION
	JACKSON KY 41339 US		N/A KY US

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
4	Magoffin Co Maintenance	2014-01-13	60.00	TN	129.00000	0.00	7,740.00

B I L T O	319166	S H I P T O	321999
	KYTC DIST 10-JACKSON DISTRICT OFFICE		KYTC LOCATION AS STATED
	PO BOX 621		SEE EXTENDED DESCRIPTION
	JACKSON KY 41339 US		N/A KY US

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
5	Menifee Co Maintenance	2014-01-13	40.00	TN	130.10000	0.00	5,204.00

B I L T O	319166	S H I P T O	321999
	KYTC DIST 10-JACKSON DISTRICT OFFICE		KYTC LOCATION AS STATED
	PO BOX 621		SEE EXTENDED DESCRIPTION
	JACKSON KY 41339 US		N/A KY US

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
6	Morgan Co Maintenance	2014-01-13	60.00	TN	128.10000	0.00	7,686.00

B I L T O	319166	S H I P T O	321999
	KYTC DIST 10-JACKSON DISTRICT OFFICE		KYTC LOCATION AS STATED
	PO BOX 621		SEE EXTENDED DESCRIPTION
	JACKSON KY 41339 US		N/A KY US

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
7	Owsley Co Maintenance	2014-01-13	40.00	TN	122.00000	0.00	4,880.00

B I L T O	319166 KYTC DIST 10-JACKSON DISTRICT OFFICE PO BOX 621	S H I P T O	321999 KYTC LOCATION AS STATED SEE EXTENDED DESCRIPTION
	JACKSON KY 41339		N/A KY
	US		US

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
8	Perry Co Maintenance	2014-01-13	60.00	TN	117.00000	0.00	7,020.00

B I L T O	319166 KYTC DIST 10-JACKSON DISTRICT OFFICE PO BOX 621	S H I P T O	321999 KYTC LOCATION AS STATED SEE EXTENDED DESCRIPTION
	JACKSON KY 41339		N/A KY
	US		US

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
9	Powell Co Maintenance	2014-01-13	40.00	TN	129.50000	0.00	5,180.00

B I L T O	319166 KYTC DIST 10-JACKSON DISTRICT OFFICE PO BOX 621	S H I P T O	321999 KYTC LOCATION AS STATED SEE EXTENDED DESCRIPTION
	JACKSON KY 41339		N/A KY
	US		US

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
10	Wolfe Co Maintenance	2014-01-13	40.00	TN	125.20000	0.00	5,008.00

B I L T O	319166 KYTC DIST 10-JACKSON DISTRICT OFFICE PO BOX 621	S H I P T O	321999 KYTC LOCATION AS STATED SEE EXTENDED DESCRIPTION
	JACKSON KY 41339		N/A KY
	US		US

Total Order Amount:	60,112.00
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CTT1 – One Time Purchase

1.00—Specifications of Commodity

KP-6 WINTER ASPHALT MIX SPECIAL TERMS, CONDITIONS, AND SPECIFICATIONS

1.01 - DESCRIPTION

Provide KP-6 Winter Asphalt Mix suitable for stockpiling, consisting of aggregate and KP-6 Winter Mix liquid asphalt as specified herein. The Department will utilize KP-6 Winter Asphalt Mix for patching during cold and damp weather on either asphalt or concrete pavement.

The Department's Standard Specifications for Road and Bridge Construction, current edition, will apply in all instances unless specifically modified herein. Section references herein are to the Department's current Standard Specifications.

1.02 - MATERIALS AND EQUIPMENT

KP-6 Winter Mix Liquid Asphalt

Ensure that the KP-6 Winter Mix liquid asphalt furnished under this specification is capable of coating wet aggregates without stripping and provides satisfactory workability and adherence characteristics for producing KP-6 Winter Asphalt Mix. Ensure the KP-6 Winter Mix liquid asphalt is tested and approved by the Division of Materials, Central Laboratory, prior to its use.

Ship the KP-6 Winter Mix liquid asphalt in insulated tankers only from authorized blending-terminal locations. Completely blend the KP-6 Winter Mix liquid asphalt under the supervision of authorized quality control personnel. Do not introduce any additives, modifiers, or extra ingredients into the KP-6 Winter Mix liquid asphalt at any time after shipping it from the terminal.

Provide, with each shipment of KP-6 Winter Mix liquid asphalt, certified test results documenting that the materials furnished conform to the specifications listed below. Additionally, obtain a one-gallon sample from one transport at random. Ship the sample to the Division of Materials, Central Laboratory, by any expedient means of transport.

Ensure the sample is received by the Division of Materials at least fourteen (14) calendar days prior to the start of KP-6 winter asphalt mix production.

KP-6 WINTER MIX LIQUID ASPHALT REQUIREMENTS

Property	Test Method	Specification
Kinematic Viscosity at 140 F	ASTM D 2170	300 to 4000 cSt
Flash Point, Tag Open Cup	ASTM D 1310	200 F (minimum)

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3/8 in.	100	
No. 4	95-100	5
No. 8	50-60	5
No. 16	10-20	3
No. 50	0-10	2
No. 200	0-5	1

Ensure the amount of KP-6 Winter Mix liquid asphalt used in the mixture fully coats the aggregate particles. Typically, use an asphalt content in the range of 5.5 to 7.0 percent by weight of the mixture, with a starting point of 5.8 percent. The amount required will depend on the aggregate gradation, absorption, and texture. The Engineer, in consultation with the supplier's representative, will adjust the amount of KP-6 Winter Mix liquid asphalt as needed.

Furnish KP-6 Winter Asphalt Mix that satisfies the following requirements:

KP-6 WINTER ASPHALT MIX REQUIREMENTS

Property	Test Method	Specification
Coating	ASTM D 2489	95 % (minimum)
Stripping in Distilled Water ¹	Visual	5 % (maximum)

¹Place approximately 100 g of KP-6 Winter Asphalt Mix in a 250-mL beaker, and cover it with distilled water for 24 hours, before observation.

Asphalt Mixing Equipment

When utilizing an asphalt mixing plant to produce KP-6 winter asphalt mix, ensure the facility is in reasonably close conformity to the requirements of Section 401. Also, ensure the asphalt mixing plant, or surge/storage system when used, is approved by the DME prior to furnishing material for this contract.

When utilizing other types of mixing equipment to produce KP-6 winter asphalt mix, ensure the operation supplies a uniform and thoroughly coated mixture satisfying the applicable specifications.

1.03 - CONSTRUCTION

Material Preparation

Aggregates

When recommended by the supplier's technical representative, heat and dry the aggregates as necessary to remove excess moisture. Ensure the aggregate temperature at the time of mixing does not exceed 175 F. Allow any aggregate above 180 F to cool prior to mixing.

KP-6 Winter Mix Liquid Asphalt

Ensure the KP-6 Winter Mix liquid asphalt is pre-approved by the Division of Materials, Central

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Laboratory. Ensure each shipment is accompanied by the manufacturer's bill-of-lading. Ensure the producer's lot number for, and the weight per gallon of, the KP-6 Winter Mix liquid asphalt is included on the vendor's ticket. Use KP-6 Winter Mix liquid asphalt directly from the delivery transport. When stored, only use tanks that have been completely emptied of other liquid materials at the mixing site for storage of KP-6 Winter Mix liquid asphalt. Heat the KP-6 Winter Mix liquid asphalt to a temperature between 185 and 265 F when mixing it with the aggregates. When received from the source of supply at a higher temperature, use KP-6 Winter Mix liquid asphalt only when approved by the Engineer; otherwise, cool it to the required temperature.

KP-6 Winter Asphalt Mix

Produce the KP-6 Winter Asphalt Mix under the direct supervision of a qualified representative from the producer of the KP-6 Winter Mix liquid asphalt and according to a JMF approved by the DME. Ensure the mixing operation is set, and the mixture tested, by a Superpave Plant Technologist (SPT). Mix the KP-6 Winter Asphalt Mix until all of the aggregates are uniformly coated. When producing KP-6 Winter Asphalt Mix in a batch plant, ensure the wet-mix time in the pugmill is between 30 and 45 seconds.

Establishing the JMF

Ensure the JMF is established by a Superpave Mix Design Technologist (SMDT) as outlined in KM 64-421. The SMDT is also responsible for the control of, and adjustments to, the KP-6 Winter Asphalt Mix. Ensure an SPT performs plant inspection, process-control testing, and acceptance testing to verify that the mixture satisfies the requirements of this contract.

Material Storage

Provide a paved stockpile pad or an established material base of KP-6 Winter Asphalt Mix on which to stockpile the freshly mixed KP-6 Winter Asphalt Mix. Use this pad or material base only for stockpiling KP-6 Winter Asphalt Mix during the contract period.

Furnish KP-6 Winter Asphalt Mix that is capable of being stored and maintaining its adhesive qualities, in an uncovered stockpile of at least 100 tons, for at least one year before being used. Cover all stockpiles of smaller quantities. Ensure the KP-6 Winter Asphalt Mix remains pliable and readily workable at all ambient temperatures above -15 F.

Supervision of Material Production

At no cost to the Department, ensure a technical representative from the producer of the KP-6 Winter Mix liquid asphalt is present during production of the KP-6 Winter Asphalt Mix.

Material Certification

Furnish a certification that states that the KP-6 Winter Asphalt Mix satisfies all specifications herein. Ensure the certification includes the results of an analysis performed by an independent laboratory, on a sample from a stockpile with a minimum quantity of 100 tons of KP-6 Winter Asphalt Mix, documenting that the material conforms to all specifications herein.

Material Warranty

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Ensure the KP-6 Winter Asphalt Mix is capable of maintaining adhesive qualities in areas that are damp at the time of application. Ensure repaired potholes do not exhibit any significant shoving, rutting, tracking, stripping, raveling, or other distress within a period of one year from the time of repair. In the event that the KP-6 Winter Asphalt Mix does not satisfy all specifications herein, remove and replace the unsatisfactory material at no cost to the Department.

1.04 - ACCEPTANCE

Point of Acceptance

The Department will consider the point of acceptance for KP-6 Winter Asphalt Mix to be when it is delivered to the Department's storage yard by the vendor or Department truck.

Basis of Acceptance

Ensure testing is performed by a qualified SPT or SMDT for gradation (KM 64-433 or KM 64-620) and asphalt content (KM 64-405 or AASHTO T 308). Perform one asphalt content determination and one gradation test per 500 tons, cumulative, of KP-6 Winter Asphalt Mix furnished.

Ensure the gradation test results satisfy the tolerances given in Subsection 1.02 of this specification and the asphalt content satisfies a tolerance of 0.5 percent. The Department will allow the established JMF to vary within the production tolerances given in Subsection 1.02 of this specification provided the percent passing any sieve remains within the gradation limits.

Retain the test results, and ensure that they are available for review by the Engineer, for a period of one year. The DME may require or perform additional testing if notified of any concerns with the mixture or if any delivered mixture visually indicates a possibility of not complying with the specifications.

Non-Compliance

The Department reserves the right to test the completed mixture or individual materials for the mixture prior to final acceptance for payment. The Department may reject materials or mixture found to be not in compliance with the requirements of this specification or require the vendor to replace unsatisfactory material as described in Subsection 3.6 of this specification.

Method of Delivery

The vendor is responsible for hauling the KP-6 winter asphalt mix to the specified locations. Ensure the shipments and hauling equipment does not exceed established Kentucky weight limits or truck sizes.

1.05 - MEASUREMENT

The Department will measure the KP-6 Winter Asphalt Mix in tons. The Department will not measure the KP-6 Winter Mix liquid asphalt for payment and will consider it incidental to the KP-6 Winter Asphalt Mix. Perform all weighing of materials according to Section 109.

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1.06 - PAYMENT

The Department will consider the unit bid price per ton for KP-6 Winter Asphalt Mix to include all labor, materials, and equipment necessary to produce this mixture.

Section 2—Terms and Conditions of the Contract

2.00—Beginning of Work

The Contractor shall not commence any billable work until a valid Contract has been fully executed. The Contract shall represent the entire agreement between the parties. Prior negotiations, representations, or agreements, either written or oral, between the parties hereto relating to the subject matter hereof shall be of no effect upon this Contract.

2.01—Contract Components and Order of Precedence

The Commonwealth's acceptance of the offer indicated by the issuance of a Contract Award by the KYTC Division of Purchases shall create a valid Contract between the Parties consisting of the following:

1. The written Contract between the Parties;
2. Any Addenda to the Solicitation;
3. Any provisions of the Solicitation and all attachments thereto;
4. The Bidder's response to the Solicitation, and
5. The Kentucky Revised Statutes KRS 45A.

In the event of an inconsistency between provisions of the solicitation, the inconsistency shall be resolved by giving precedence in the following order: (a) the Specifications; (b) other provisions of the Solicitation, whether incorporated by reference or otherwise; (c) Contract or Master Agreement Terms and Conditions; (d) FAP 110-10-00 – General Conditions and Instructions for Solicitations and Contracts.

2.02—Changes and Modifications to the Contract

During the period of the contract, a modification shall not be permitted in any of its conditions and specifications, unless the contractor receives electronic or written approval from the KYTC Division of Purchases. If the contractor finds at any time that existing conditions make modification in requirements necessary, the contractor shall report the matter promptly to the KYTC Division of Purchases for consideration and decision. All contract modifications shall be subject to the provisions of 200 KAR 5:311.

2.03—Basis of Shipment

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All shipments shall be F.O.B. Destination to the receiving agency. The vendor shall be fully responsible for all shipments and freight charges involved to the ordering agency. The responsibility for filing freight claims lies with the vendor.

2.04—Notices

Unless otherwise instructed, all notices, consents, and other communications required and/or permitted by the Contract shall be in writing.

After the Award of Contract, all programmatic communications are to be made to the Agency Contact Person listed below with a copy to the Division of Purchases.

T.J. Gilpin
Division of Maintenance
 Kentucky Transportation Cabinet
 Phone: 502-564-4556
 E-mail: Thomas.Gilpin@ky.gov

With copy to:

Laura Hagan, CPPO, CPPB
 Division of Purchases
 Kentucky Transportation Cabinet
 Phone: 502-564-4630
 E-mail: Laura.Hagan@ky.gov

After the Award of Contract, all communications of a contractual or legal nature are to be made to the KYTC Division of Purchases.

2.05—Deliveries

Vendor guarantees delivery of all requested items within twenty-five (25) calendar days following award of contract.

The vendor agrees that when delivery is not made within the contracted due date that one percent (1%) per day will be deducted from the vendor's invoice for each day the vendor fails to meet the contracted delivery date.

2.06—Inspection

All supplies, equipment and services shall be subject to inspection or tests by the Commonwealth prior to acceptance. In the event supplies, equipment or services are defective in material or workmanship or otherwise not in conformity with specified requirements, the Commonwealth shall have the right to reject the items or services or require acceptable correction at the vendor's expense.

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2.07—Invoices

Invoices, if required, shall be prepared and transmitted to the agency receiving the goods or services. One copy shall be marked "original" unless otherwise specified. Each invoice shall contain at least the following information:

- a. Contract and order number;
- b. Item numbers;
- c. Description of supplies or services;
- d. Sizes;
- e. Quantities
- f. Unit prices; and
- g. Extended totals.

2.08—Payments

A bill shall be paid within 30 working days of either the receipt of correct invoice, or receipt of goods or services in satisfactory condition. A penalty payment of one percent (1%) per month shall be added to the amount due the vendor for each full or partial month that the payment exceeds 30 working days. As an incentive for earlier payment, bidders for state contracts are encouraged to offer discounts for payments made in less than the prescribed 30 days.

2.09—Post Contract Agreements

This contract will constitute the entire agreement between the State and awarded contractor. The Commonwealth shall not be required to enter into nor sign further agreements, leases, company orders or other documents to complete or initiate the terms of the contract. Any such documents so obtained will be non-binding on the State and be cause for breach of contract.

2.10—Termination of Contracts

A contract may be terminated for default by the vendor, for the convenience of the Commonwealth, or for lack of appropriation in accordance with 200 KAR 5:312.

2.11—Endorsements

The Contractor shall not refer to the Award of Contract in commercial advertising in such a manner as to

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state or imply that the firm or its services are endorsed or preferred by the Commonwealth of Kentucky.

2.12- Registration with the Secretary of State by a Foreign Entity.

Pursuant to KRS 45A.480(1)(b), an agency, department, office, or political subdivision of the Commonwealth of Kentucky shall not award a state contract to a person that is a foreign entity required by [KRS 14A.9-010](#) to obtain a certificate of authority to transact business in the Commonwealth (“certificate”) from the Secretary of State under [KRS 14A.9-030](#) unless the person produces the certificate within fourteen (14) days of the bid or proposal opening. Therefore, foreign entities should submit a copy of their certificate with their solicitation response. If the foreign entity is not required to obtain a certificate as provided in [KRS 14A.9-010](#), the foreign entity should identify the applicable exception in its solicitation response. Foreign entity is defined within [KRS 14A.1-070](#).

For all foreign entities required to obtain a certificate of authority to transact business in the Commonwealth, if a copy of the certificate is not received by the contracting agency within the time frame identified above, the foreign entity’s solicitation response shall be deemed non-responsive or the awarded contract shall be cancelled.

Businesses can register with the Secretary of State at <https://secure.kentucky.gov/sos/ftbr/welcome.aspx>.

2.13—EEO ACT

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The Contractor shall comply with all terms and conditions of the Act, if applicable.

1. Failure to comply with the Act may result in non-award, withdrawal of award, cessation of contract payments, etc.
2. Vendors/Contractors must submit the following documents in accordance with the requirements of the solicitation—EEO-1: Employer Information Report, Affidavit of Intent to Comply and Subcontractor Report or a copy of the Kentucky EEO Approval Letter issued by the Finance and Administration Cabinet, Office of EEO and Contract Compliance.
3. Vendors/Contractors may obtain copies of the required EEO documents from the Finance and Administration Cabinet’s e-Procurement Web page under Finance Forms at the heading Procurement at the following address:
<http://finance.ky.gov/SERVICES/FORMS/Pages/default.aspx>
4. Vendors/Contractors must advise each subcontractor/subvendor—with a subcontract of more than \$500,000—of the subcontractor’s obligation to comply with the KY EEO Act. Further, Vendors/Contractors are responsible for compiling EEO documentation from their subcontractors/subvendors and submitting the documentation to the Finance and Administration Cabinet, Office of EEO and Contract Compliance. (Note: contracts below the second tier are exempt from EEO reporting.)

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5. Failure to complete, sign and submit all required documents will delay the award process as incomplete submissions will not be processed. Further, alternate versions of the required documents will not be accepted or processed.
6. Pursuant to KRS 45.610 (2), the Finance and Administration Cabinet, Office of EEO and Contract Compliance reserves the right to request additional information and/or documentation and to conduct on-site monitoring reviews of project sites and/or business facilities at any point for the duration of any contract which exceeds \$500,000 to ascertain compliance with the Act and such rules, regulations and orders issued pursuant thereto.
7. All questions regarding EEO forms or contract compliance issues must be directed to the Finance and Administration Cabinet, Office of EEO and Contract Compliance via e-mail: Finance.ContractCompliance@ky.gov or via telephone: (502) 564-2874.

2.14—Kentucky Sales and Use Taxes

Sales of tangible personal property or services to the State of Kentucky and its agencies are not subject to state sales or use taxes.

2.15- Access to Records

The contractor, as defined in KRS 45A.030 (9) agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.

In the event of a dispute between the contractor and the contracting agency, Attorney General, or the Auditor of Public Accounts over documents that are eligible for production and review, the Finance and Administration Cabinet shall review the dispute and issue a determination, in accordance with Secretary's Order 11-004. (See attachment)

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SECRETARY'S ORDER 11-004

FINANCE AND ADMINISTRATION CABINET

Vendor Document Disclosure

WHEREAS, in order to promote accountability and transparency in governmental operations, the Finance and Administration Cabinet believes that a mechanism should be created which would provide for review and assistance to an Executive Branch agency if said agency cannot obtain access to documents that it deems necessary to conduct a review of the records of a private vendor that holds a contract to provide goods and/or services to the Commonwealth; and

WHEREAS, in order to promote accountability and transparency in governmental operations, the Finance and Administration Cabinet believes that a mechanism should be created which would provide for review and assistance to an Executive Branch agency if said agency cannot obtain access to documents that it deems necessary during the course of an audit, investigation or any other inquiry by an Executive Branch agency that involves the review of documents; and

WHEREAS, KRS 42.014 and KRS 12.270 authorizes the Secretary of the Finance and Administration Cabinet to establish the internal organization and assignment of functions which are not established by statute relating to the Finance and Administration Cabinet; further, KRS Chapter 45A.050 and 45A.230 authorizes the Secretary of the Finance and Administration Cabinet to procure, manage and control all supplies and services that are procured by the Commonwealth and to intervene in controversies among vendors and state agencies; and

NOW, THEREFORE, pursuant to the authority vested in me by KRS 42.014, KRS 12.270, KRS 45A.050, and 45A.230, I, Lori H. Flanery, Secretary of the Finance and Administration Cabinet, do hereby order and direct the following:

- I. Upon the request of an Executive Branch agency, the Finance and Administration Cabinet ("FAC") shall formally review any dispute arising where the agency has requested documents from a private vendor that holds a state contract and the vendor has refused access to said documents under a claim that said documents are not directly pertinent or relevant to the agency's inquiry upon which the document request was predicated.
- II. Upon the request of an Executive Branch agency, the FAC shall formally review any situation where the agency has requested documents that the agency deems necessary to conduct audits, investigations or any other formal inquiry where a dispute has arisen as to what documents are necessary to conclude the inquiry.
- III. Upon receipt of a request by a state agency pursuant to Sections I & II, the FAC shall consider the request from the Executive Branch agency and the position of the vendor or party opposing the disclosure of the documents, applying any and all relevant law to the facts and circumstances of the matter in controversy. After FAC's review is complete, FAC shall issue a Determination which sets out FAC's position as to what documents and/or records, if any, should be disclosed to the requesting agency. The Determination shall be issued within 30 days of receipt of the request from the agency. This time period may be extended for good cause.

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- IV. If the Determination concludes that documents are being wrongfully withheld by the private vendor or other party opposing the disclosure from the state agency, the private vendor shall immediately comply with the FAC's Determination. Should the private vendor or other party refuse to comply with FAC's Determination, then the FAC, in concert with the requesting agency, shall effectuate any and all options that it possesses to obtain the documents in question, including, but not limited to, jointly initiating an action in the appropriate court for relief.
- V. Any provisions of any prior Order that conflicts with the provisions of this Order shall be deemed null and void.